IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6072 OF 2006

Shri Daulat Vishnu Dhawale & Ors. .. Petitioners.
Vs.
Shri Dattu Sadhu Tupe & Ors. .. Respondents.

Mr.Sugandh B.Deshmukh for the petitioners.
Mr.P.J.Pawar for respondent no.1.

CORAM : D.B.BHOSALE, J.

DATED : 13TH SEPTEMBER, 2006

P.C.:

. Heard learned counsel for the petitioners and respondent no.1.

2. By this writ petition, the petitioners have impugned the order dated 2.8.2006 by which the court below has allowed the application at Exhibit-183 seeking appointment of D.I.L.R. as the Court Commissioner for fixing boundaries, area and to identify the land in dispute. The subject matter of the suit was Survey No.27/A/1. However, pending the suit, consolidation scheme was made applicable to the village and the land in dispute was converted into three gat nos.451, 452 and 453. According to Mr.Deshmukh, learned counsel for the petitioners, since survey no.27/A/1 does not exists as of today and

has merged into the aforesaid Gat numbers the Court Commissioner will not be able to identify the land in dispute. He further submits that the extent of all the three gat numbers is more than, what the petitioners are entitled for under the decree, and, therefore, the appointment of the Court Commissioner itself is wrong. I do not find any substance in the submissions advanced by Mr.Deshmukh, learned counsel for the petitioners. It would be open for the petitioners to file their objections to the Court Commissioner's report, if so advised, and if the objections are raised same would be considered in accordance with law. Keeping in view the observations made in the impugned order and in paragraph 10 thereof in particular, in my opinion, the order is just and proper and it does not warrant interference by this court in its writ jurisdiction under Article 227 of the Constitution of India. The writ petition is dismissed.

(D.B.Bhosale, J.)